IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

Management Committee, Bhopal Nobles P.G. College.
Vs.
Ummaid Singh Rathore & Ors.

S.B. CIVIL WRIT PETITION NO.5460/2004 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 15th December , 2006

PRESENT

HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr.A.K. Rajvanshy, Advocate, for the petitioner.
Mr. S.D. Rajpurohit, for the respondents.
Mr. Rameshwar Dave, Dy. Government Advocate, for the respondent State.

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BY THE COURT:

The petitioner in the present writ petition has challenged the order dated 10.9.2004 passed by the respondent no.3 Rajasthan Non-Government Educational Institutions Tribunal, Jaipur whereby it has been required to make payment of gratuity to respondent no.1 Ummaid Singh Rathore who retired from their service as Principal.

The controversy which has been raised in this writ petition has been set at rest by the Hon'ble Supreme Court in in Rajasthan Welfare Society Vs. State of Rajasthan JT 2005 (4) SC 163. In that the Hon'ble Supreme Court held that the gratuity within the meaning of the Act and the Rules cannot form part of recurring grant. It is not includable as part of approved expenditure for the purposes of computing the amount of grant payable to the appellant. The Hon'ble Supreme Court in concluding part of the judgment further observed that "if representations are made by aided Non-Government Educational Institutions, the State Government would consider sympathetically the question of the gratuity amount payable to the employees being taken into consideration for the purpose of computing the amount of grant-in-aid". It was further clarified that "pending making of such representation and its consideration, the payment of gratuity to the employees shall not be delayed".

In the present case, the learned counsel for the petitioner submitted that payment of gratuity has already been made.

In view of the settled proposition of law as aforesaid, I do not find any merit in the present writ petition and the same is hereby dismissed. However, the petitioner is at liberty to make representation to the State Government in terms of the observations made by the Hon'ble Supreme Court in para no.16 of its judgment in Rajasthan Welfare Society (supra).

There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.

c.p.goyal/-